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MAJOR PROBLEMS AND EMERGING TRENDS WITH RESPECT TO GOVERNANCE IN AFRICA

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MAJOR PROBLEMS AND EMERGING TRENDS WITH RESPECT TO GOVERNANCE IN AFRICA

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Dakar, April 1998

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MAJOR PROBLEMS AND EMERGING TRENDS WITH RESPECT TO GOVERNANCE IN AFRICA

SUMMARY

It is generally acknowledged that good governance would benefit the African countries. The problem is how to put governance programmes into practice in these countries.

Because development partners have diverging views on the substance and even the objectives of good governance, it is necessary, in order to ensure the effectiveness of their actions and especially of the activities of the United Nations, to identify major problems and emerging trends in this area.

Such an identification process should be based on the recent development activities of the United Nations and of bilateral agencies. An analysis of these activities reveals an impressive, though not exhaustive, list of elements which are considered to be indicators of good governance.

The following conclusions can be drawn from this body of information.

A. Major problems

Three sets of major problems can be identified:

1. Problems in building a democratic State governed by the rule of law. Steps must be taken to ensure that the African State is built and operated according to the basic principles of good governance: separation of powers, independence of the judiciary, freedom of the media, free elections, the multi-party system and the opposition, and so forth. It is also necessary to ensure that these countries have constitutions which guarantee good governance, reflect reality without compromising universal human rights, are well written and have no demagogic provisions which have only the effect of a declaration.

2. Problems concerning the emergence of a democratic society in Africa. The basic principles of good governance which relate to these problems are: (a) popular participation, including decentralization, the restructuring of legislatures to make them more representative, the strengthening of civil society and of non-governmental organizations and all measures which lend legitimacy to political power and authority to the Government; (b) effectiveness, which requires efforts to enhance transparency and to combat corruption, as well as accountability; (c) national integration, or a set of measures to create solidarity among different social groups and to unify the legal system so as to give effect to the decisions of the governing authorities.

3. Problems concerning public policy formulation and management. In many cases, bad governance is a result of poorly formulated and poorly managed public policies.

B. Emerging trends

Two major trends can be identified in Africa's problems with respect to governance.

1. Issues concerning the future of the African State. It is generally agreed that the African State must be strengthened, since liberalization should not be tantamount to the creation of a "minimum State" or weak State. What has not yet been established is how to do so without jeopardi ing the freedom of the market and without reverting to an interventionist or authoritarian State. Moreover, new forms of the African State are appearing on tne horizon, such as the regional State and the multinational or ethnic State.

2. Problems concerning the future of pluralist majoritarian democracy. The whole theory and strategy of the United Nations and of most bilateral agencies with respect to governance rests on the premise that Africa will accept pluralist majoritarian democracy as its political system. However, this hypothesis will be borne out less and less in the future, for at least two reasons.

First, majoritarianism is not accepted in Africa. Dividing people arithmetically into a majority and a minority and saying that the minority must yield to the majority is not part of African culture. This is why, in those countries where this system has been instituted, the majoritarian principle has been distorted: the significant opposition enters the Government and the legislature is left without opposition. In-depth reforms must be implemented if the majoritarian principle is to be accepted in Africa.

Second, increasingly authoritative views have been expressed to the effect that there is a plurality of democratic models in Africa, all of which are as acceptable as they are legitimate. Pluralist majoritarian democracy will therefore compete with culturalist models such as democracy without political parties, or consensual democracy. Nor can we rule out the possibility of a re-emergence of one-party systems under the guise of majority parties; in other words, systems in which one party is always the majority party, surrounded by a satellite system of small parties which have no real political influence.

These phenomena will make it necessary to review all the hypotheses which currently underpin theories of good governance.

INTRODUCTION

For nearly two decades, good governance has been emphasized as a determining factor of development in the broad sense, encompassing not only economic growth but also social progress. However, the concept of good governance did not become truly operative and was not effectively introduced in French-speaking African countries until recently, following the initial evaluations of structural adjustment programmes. Since then, it has become a dominant and even a strategic concept in the management of public affairs.

At the theoretical level, it is widely recognized that good governance has had beneficial effects on the African countries.

Accordingly, it is no longer disputed that good governance is a factor in the maintenance of peace, social stability and security, and that it can strengthen the legitimacy and authority of African Governments by eliminating, or at least attenuating, the conflicts which are undermining many of them. Moreover, although the point is still in dispute, it is being increasingly affirmed that good governance is linked to development because it will presumably enable the African countries to develop faster and in a more sustainable manner.

It is at the practical level that a major difficulty arises: how to implement programmes of good governance in Africa.

This practical question is a point of sometimes profound disagreement among the African Governments, multilateral development agencies and the United Nations itself. This shows that not everyone attributes the same meaning or the same features to the concept of good governance. This divergence of views explains the divergence of objectives and even of outcomes, which differ according to the meaning attached to this concept or the manner in which it is understood. More importantly, it leads to a situation in which development funds are wasted, insofar as the various sectoral programmes on good governance are not bound together by a comprehensive vision.

The solution to this practical problem lies in determining key elements and identifying emerging trends in good governance. The search for these key elements should be based not on theory, but rather on the recent activities of the United Nations system, the Organization of African Unity (OAU) and bilateral development agencies (World Bank, International Monetary Fund (IMF), United States Agency for International Development (USAID), French cooperation, various foundations, etc.), as well as the African States themselves.

This process will serve several purposes:

- To compile and synthesize elements which are considered by both the United Nations and other development partners to be indicators of good governance;

- To identify which key elements among them are likely to enjoy, if not the consensus of development partners, then at least the widest possible agreement. This will make it possible, in the implementation of governance

programmes, to harmonize viewpoints, to coordinate the overall vision of development, to establish a coherent strategy and to obtain more satisfactory results;

- To pinpoint the areas of disagreement among development partners, to analyse the motives, nature and scope of these disagreements and to draw conclusions as to their consequences for the implementation of governance programmes;

- Lastly, to analyse these key elements and the new trends which emerge from them, and to make recommendations to the United Nations for putting them into practice.

Accordingly, this report will consist of three parts:

I. Overview of recent activities and initiatives in the area of governance in Africa;

II. Identification of key problems and emerging trends with respect to good governance in Africa;

III. Recommendations.

I. OVERVIEW OF ACTIVITIES AND INITIATIVES IN THE AREA OF GOVERNANCE

During the past few years, the United Nations, like other development partners, has devoted numerous activities to good governance. The following list, while not exhaustive, highlights some of these activities.

1. Global initiatives

- In June 1995, the Cairo Agenda for Action, adopted by the Organization of African Unity (OAU), recognized that good governance, like democracy, peace, security and stability, is an essential factor in economic and social development.

- In March 1996, the United Nations launched the System-wide Special Initiative on Africa in order to provide support for the United Nations New Agenda for the Development of Africa (UN-NADAF). Within that framework, the United Nations Development Programme (UNDP) created a subsidiary programme, the Special Initiative on Governance in Africa (SIGA). This programme is intended to promote good governance by developing sound institutions, increasing the role of civil society and encouraging transparency, responsibility and effective results.

- In April 1996, at its resumed fiftieth session, the General Assembly adopted resolution 50/225 concerning public administration and development.

In it the General Assembly affirmed, inter alia, that "transparent ... governance and administration in all sectors of society are indispensable foundations for ... development".

General Assembly resolution 50/225 breathes new life into the management of public affairs in Africa. Most initiatives currently under way in the area of governance draw their mandates from it.

- In May 1997, the Group of Experts on the United Nations Programme in Public Administration and Finance gave in-depth consideration at its thirteenth session, to inter alia, the question of good governance from the point of view of General Assembly resolution 50/225 and, above all, made recommendations for action at the national and international levels on the basis of the theme, "redesigning the State for socio-economic development and change".

2. Regional initiatives

At the regional level, there have been a number of activities devoted to good governance, four of which are particularly noteworthy.

- In February 1991, the World Bank organized a seminar on governmental management and economic development in Senegal. The seminar brought together several experts and political decision-makers in order to analyse the interaction between development activities and conditions for governmental management. The seminar focused on criteria for analysing good governance.

- In November 1991, the International Institute of Administrative Sciences (IIAS) and other development partners organized a regional seminar in Dakar (Senegal) on the theme of institutional capacity for change and support of public policy. The seminar brought together representatives of the Governments of a number of African countries, political decision-makers and experts in order to consider the importance of an appropriate institutional framework for public affairs management.

- In November 1996, a regional seminar on good governance and development was organized in Dakar by the African Institute for Democracy in cooperation with UNDP, USAID, the Agency for the French-Speaking Community (ACCT) and other multilateral development assistance agencies. The very concept of good governance and its content and purposes were reconsidered at this important meeting.

- In May 1997, the Second Conference of Ministers of Public Administration of States members of the Observatoire des Fonctions Publiques Africaines (OFPA) was held at Cotonou (Benin) in cooperation with the Mission Française de Coopération et d'Action Culturelle. It brought together not only observers and experts, but also government representatives in the area of public administration from nearly 20 French-speaking African States. While the central theme of this conference, a new African public administration for improved service to users, naturally focused on problems in public administration, a major portion of the conference was devoted to good governance and, above all, provided the representative of France with an opportunity to explain the French concept of good governance.

- In July 1997, an African Governance Forum was held in Addis Ababa under the auspices of UNDP and the United Nations Economic Commission for Africa (ECA). The Forum brought together representatives of a number of African Governments in order to describe and discuss their national governance programmes. This Forum was followed by an international conference on African development organized by UNDP in order to discuss international practices and experience in the area of development.

- In March 1998, the United Nations organized a conference in Addis Ababa on the theme, "Governance in Africa: Strengthening the Institutional Framework".

The goals of the conference were to encourage discussion of the best means of strengthening State institutions as an essential condition for good governance, to identify obstacles to the consolidation of good governance and strategies for overcoming them, to establish a strategic plan of action for consolidation of the institutional framework with a view to achieving good governance in African countries and to publicize the lessons drawn from experience in various countries.

These activities have produced significant results which, owing to space limitations, cannot be described here. For example, the concept and meaning of good governance were clearly identified. In this regard, the United Nations concept emerged as the standard against which others were measured. In addition, the links between good governance and development were reaffirmed,

with the understanding that the latter meant sustainable human development as defined by the United Nations. Lastly, basic principles for building an institutional framework for good governance were established.

II. IDENTIFICATION OF KEY CATEGORIES AND EMERGING TRENDS WITH RESPECT TO GOVERNANCE IN AFRICA

The activities summarized above, together with the practices of African States, give rise to a long and, moreover, non-exhaustive list of factors which are in some way linked or related to good governance. The next step, keeping them in mind, is to identify and analyse what may be considered key categories of governance.

Then, based on the conclusions of this analysis, the next step will be to provide a proactive, future-oriented description of emerging trends - in other words, problems which are likely to arise in the future with respect to governance.

A. Key categories of governance

1. Preliminary considerations

The conclusions and recommendations resulting from the most important recent activities in the area of governance, together with States' practice, make it possible to identify three key categories into which all the elements and indicators that have been identified fall: the democratic State or State under the rule of law; democratic society; and the problem of public policy formulation and management. Essentially, this means that good governance is ensured where there is a democratic State under the rule of law, where such a State is based on a democratic society and where there is good coordination between the State and society, which presupposes good public policy formulation and management.

Each item on the long list of indicators of good governance falls into one of these three categories. Conversely, bad governance means that a democratic State under the rule of law is poorly constructed or does not function appropriately, that a democratic society contains dysfunctional elements or that Government policies are ill-formulated or badly managed.

The three categories are presented here logically, in the order of their creation. The democratic State under the rule of law means the institutional framework, process and mechanisms of governance. Democratic society, on the contrary, involves the very content of democracy and the values, forms of culture and lifestyles which good governance must take into account.

In study, as in action, logical priority must be given to the institutional approach and the construction of a democratic State. Montesquieu's reference to "channels of power" is suggestive in this regard: taking its content as a value, a form of culture or civilization, democracy may be compared to a precious liquid which threatens to spill in all directions, to seep into the

ground or to mix with impurities unless there are appropriate vessels, channels or utensils to hold and retain it. Similarly, an appropriate institutional framework, comparable in this regard to a safe designed to hold valuables, is the indispensable precondition for the establishment and development of any democratic society.

This explains, in large part, why calls for democracy or good governance invariably begin with institutional demands: it is the State, its form, structures and operating mechanisms, which are the first to be called into question when people complain about bad governance or a lack of certain values which are considered to be democratic; conversely, the restoration or renewal of certain values is undertaken only as part of an institutional process which is, or is perceived or considered to be, appropriate. It is precisely when citizens believe that the State - this channel, as it were - is no longer an appropriate vehicle for democratic values, that legitimacy crises arise; at that point, the channel must be rebuilt or replaced.

The following conclusion, contained in working paper No. 2 of the United Nations conference held in Addis Ababa in March 1998, is particularly appropriate:

> "This paper has placed greater emphasis on the role of the State, and on the role of the center within a state, than might be typical of much of the literature in the field. To some extent that is simply a reaction to an excessive ... emphasis on society and the governability of regimes. It also represents the awareness that building effective political institutions may be achievable more quickly than building quiescent societies and wealthy economies. These factors do work together, but building government institutions does appear to be the best place to start the process of governance."

To summarise, then, the key categories and problems of governance are, in logical and chronological order: establishment of an institutional framework, in other words, construction of a democratic State under the rule of law; promotion of a democratic society; and, lastly, good formulation and management of public policy.

These ideas deserve some brief explanation.

2. The Democratic State governed by the rule of law

Three elements must be present in order to build a democratic State based on the rule of law in Africa.

(a) Basic principles that are consonant or at least compatible with universal human rights standards. While, as we have seen, the list is not a closed one, a number of these principles have become paradigms: multipartyism and political opposition, freedom of the press, an independent judiciary, free, fair and transparent elections, and the alternation of power, among others.

(b) An organizing principle: the separation of powers

Separation of powers is the fundamental principle which guides or should guide the distribution of power in a democratic State. This principle is comparable to the design of a building and fulfils two functions which, though on the surface contradictory, are in fact complementary.

On the one hand is the principle of integration, in keeping with which space in a democratic State is organized in such a way as to enable goods or values which have the same characteristics or serve the same purpose to be stored together. This is why we should really speak of separation of functions. It is the same principle that permits us within a building to distinguish between the bedrooms and other rooms that are intended for different uses. Such a design is not neutral. It determines a priori where goods and valuables will be placed. We know, for example, where household appliances and bedding will be stored. Likewise, the design of the building already determines the way in which life will be organized in it. It assumes in fact an implicit acceptance that each room will fulfil the function for which it was designed: that, for example, there will be no cooking in the bathrooms and that cattle will not be brought into the bedroom, as might be done in a traditional house.

On the other hand, the same principle is presented as a principle of exclusion insofar as it leads to the exclusion from the democratic space of the goods and values that do not belong there. For example, in the design of the building referred to above, which corresponds to a Western-style apartment or house, no area has been set aside for firewood just as there is no possibility of bringing cattle inside. The principle of the separation of powers therefore operates like the housewife and her sifter: it rejects those values that are incompatible with the democratic edifice.

The separation of powers is an indicator of good governance when it is expressed in three important ways.

- Separation of the legislative, executive and judicial branches. The legislative branch should not be a creature of but a counterweight to the executive branch. This assumes not only the existence of a multiparty political system but also a balance between the various political parties. Indeed, any imbalance between the parties could result in one of them becoming dominant and thereby controlling the executive and legislative branches, which would no longer be able to play the role of counterweight to the government.

The judicial branch must have guarantees of independence from the executive and the legislative branches without, however, becoming a State within a State. No pressure must be brought against judges in the exercise of their functions.

- Separation of State and religious institutions and forces. In a democratic State, decisions must be taken by the State alone, without interference from religious institutions and forces. It is in this sense that it can be argued that a democratic State, especially one in Africa, must be secular.

Secularism must not be viewed as in nineteenth century Europe in terms of conflict between the State and religious institutions. On the contrary, the challenge is to promote coexistence between the State and all beliefs. A secular State is one which does not discriminate between believers and non-believers and establishes no hierarchy of religions. It permits the coexistence of different social groups in heterogeneous, multiracial, multi-ethnic and multi-denominational societies.

- Separation of State and political parties. Generally speaking, a democratic State is not neutral because its mission is to impose and to emphasize the democratic ideology of which democratic parties are the vehicles, that is to say, parties that accept the principles of democratic pluralism and the type of society that it engenders. A democratic State, however, tolerates other doctrines, provided that these are manifested in ways that do not call into question the existence of the State itself. It is the only type of regime that accepts (here again, provided that its own existence is not threatened) the development within it of doctrines that declare themselves to be overtly opposed to its ideals and, where necessary, combat them.

With this reservation and subject to these limitations, it may therefore be said that, even though a democratic State may not be neutral, it is or should be an arbiter between parties. It must hold the balance between the democratic and non-democratic parties that operate within the State. This means that the State apparatus should not be dominated by any of its parties and that public resources and public property should not be placed in the service of the party in power, which, in most cases, is the majority party. The separation between the State and political parties is a functional separation. It means that government leaders must distinguish between their responsibilities as statesmen and those of members of the political parties to which they belong.

One of the particularities of a democratic State is the universalism of its principles. This means that the functions that are assigned to such States remain identical in every continent and irrespective of the population to which they are applied. It is rather like a religion whose rules have been determined by the competent authorities in writing if necessary and are valid for all races and continents for those persons who accept them.

The universalism of democratic principles should not be confused with uniformity; universal does not mean uniform. This is why each people, each race can build its democratic house with its own cultural patrimony and its own values of civilization. The universal and standardized structures of the edifice, as well as the functions assigned to each room act as a sifter and eliminate those cultural values that are contrary to the specific characteristics of democracy. The universalism of democracy is therefore fully compatible with the diversity of cultures.

(c) A democratic constitution

Good governance requires a State ruled by law to be based on a democratic constitution that is free of any kind of demagogic or inapplicable provisions, such as: foolhardy proclamations to embellish the façade of the State, provisions which are inserted to prove that a particular country is more

democratic than the industrialized countries and which institute onerous and complex mechanisms, neutralize authority under the guise of monitoring it, create a government but deprive it of the means to govern, all of which provisions are inspired by political propaganda, the utopian (in the pejorative sense of the term) nature of which is not in doubt.

Instead, African constitutions should be simple and clear and should organize the process of decision-making by the majority in a logical and coherent manner.

Where a constitution meets these requirements, it must be rigorously respected. Governments must not amend constitutions in order to adapt them to their political ambitions. On the contrary, it is the governments which must adapt to the constitution, somewhat like a tenant adapts to an apartment which he occupies without having the right to modify it.

3. Democratic society

A democratic society is an essential requirement for good governance. The objectives of good governance cannot be attained in a society that is riven by conflict, rivalry or racial or ethnic exclusion, tribalism, excluding the majority from participation in the management of public affairs, irresponsibility, chaos, corruption and waste.

In Africa, three types of measures can be taken to facilitate the emergence of a democratic society.

(a) Participation and legitimacy

Quite often, poor governance is the result when governments are not legitimate in the sense that they did not gain power with the consent of the largest number. This is most often the case for two reasons:

- Either the constitution and statutes of governing institutions are poorly drafted and do not permit the largest number of citizens to participate in public affairs, which is the legal aspect of the problem;

- or the constitution and statutes of governing institutions do provide mechanisms for popular participation, but governments ignore these provisions in order to remain in power, which is the political and civic aspect of the problem. This situation occurs when the citizenry is so weak or has been kept for so long in servitude and fear that it cannot or dares not claim the rights to which it is entitled under the constitution. Civil society, non-governmental organizations, pressure groups and other intermediate forces whose vocation is to serve as a counterweight to the central authority are weak or non-existent.

But this is an extreme-case scenario because, when the legal dimension has been effectively addressed and constitutions and other government institutions well conceived, counterweights to power develop in the society and limit the arbitrary actions of governments. The role of civic education in the emergence of such counterweights to government power is decisive, but civic education will

not achieve its objectives if the legal framework within which it is imparted is inappropriate. For example, it is not much use explaining to citizens that they can challenge government decisions or to vulnerable groups, such as women, that they can influence the government decisions in their favour, in the absence of an existing legal framework for organizing and protecting these rights.

Three legal reform measures have the potential to enhance popular participation and the legitimacy of governments.

- Re-evaluation of universal suffrage. It is by no means certain that universal suffrage is appropriate in all situations and at all levels of African societies. Indeed, the integration of these societies, which is a requirement for the proper functioning of democratic pluralism, requires (among other reforms) the protection of minorities, the promotion of decentralization through diversification of the statutes of local groups, major land reform measures to achieve a redistribution of economic power, and the nurturing and defending of cultural pluralism in order to give an equal chance to all cultures and to permit each individual to choose his culture. These reforms and many others will require other forms of representation and other mechanisms for choosing representatives. They therefore mean that universal suffrage should be confined to specific and clearly-defined areas, since, uncontrolled, it may in certain cases tear instead of reinforcing the social fabric.

- Re-evaluation of the modalities of popular participation. African constitutions must permit populations within the framework of a majority government to participate as far as possible in the preparation, elaboration and execution of decisions that affect them. In this connection, democracy offers an impressive range of instruments which have been little used in Africa but which could radically transform African societies. These include:

  - modalities of co-management and of sharing in the capital and results of production units;

  - introduction or strengthening of mechanisms of direct democracy, namely: referendums on all major issues; popular veto that permits a group of citizens to oppose the application of a law; the right of citizens to take the initiative to put laws to a vote; the power to revoke the appointment of officials, particularly at the local level, and so on.

  - modalities for national dialogue: certain important issues, a list of which could be set out in the constitution or in national laws, should obligatorily be made the subject of a national dialogue.

  It would be possible in this way to create a genuine participatory and vibrant democracy capable of strengthening national solidarity.

- Devolution of power. African constitutions must fully exploit the democratic principle of the separation of powers. In its classic form, this principle refers to the separation of the legislative, executive and judicial branches. What is important to remember, however, are not the three major branches thus created but the very

principle of separation. The principle of separation is an evolving, dynamic principle which does not embody a fixed form of organization of power but allows all types of societies to adapt to the demands of a pluralist democracy.

A high degree of inflexibility is characteristic of African societies: the State is highly centralized and its economic powers, particularly those over land, have been usurped by feudal systems. This being the case, the machinery of pluralistic democracy is ineffective: the traditional separation of power between the executive, the legislature and the judiciary, which was intended to create a system of checks and balances, can no longer operate.

Parliament is a good example. In the traditional separation of powers, Parliament's role was to counterbalance the executive. That being the case, persons wishing to be elected to parliament had to meet high standards, and had to have the material means to fulfil their mission.

However, above all they had to be representative, in other words, they had to wield effective political power over the populace. However, the electoral codes of most African countries make this impossible for they focus on ensuring that there are no irregularities in the electoral process rather than on ensuring that those elected are representative. That is why members of Parliament can be elected transparently and with no irregularities without, however, wielding real political power over the population. This means that political power does not lie within the Parliament, but in religious or traditional circles, for example. For Parliament to become the place where the decisions come from and play its counterbalancing role properly, a different philosophy of electoral law is needed.

In order to shatter the inflexibility of Parliament and of the other democratic institutions, the constitution must make provision for mechanisms to gear down power; this does not just involve a simple technical adjustment such as devolution; rather, it means adopting a different philosophy for distributing power, all forms of power, so that every individual, every social group, has something to hold on to and defend.

The secular States are making progress in this area as they make it possible to draw a distinction between political and religious power. However, in a secular State power is a synthesis: it consists not only in the power to regulate the citizens' behaviour officially, but also in the power to pre-empt their ethical choices; not only are the citizens told how they should act; their ethical choices are pre-empted and they are told what they must do. To create effective checks and balances, it is necessary to push ahead with the gearing down of power - for the secular State is just the first link - for example by separating political power from economic power on the one hand and from cultural power on the other.

(b) Effectiveness and accountability

Democratic society presupposes both effectiveness in the decision-making process and accountability on the part of the administration's staff.

- Effectiveness can be achieved thanks to two key indicators of good governance:

  - Transparency, which is one way to prevent corruption. The detailed analyses of this issue in recent United Nations and bilateral development agency activities remain both pertinent and valid today. Also, close and constant collaboration between the United Nations and organizations such as Transparency International will be very beneficial for Africa, while the adoption of an international convention, presently in draft, to combat corruption will be a significant step forward in this area.

Meanwhile, Africa can take initiatives that, though modest, are effective and easy to implement. It can begin by ensuring transparency in the use of official development assistance.

Africa receives significant quantities of bilateral and multilateral assistance for the development of its institutions. However, unless it is used properly, official assistance which is intended to strengthen democracy can ruin it; it can rip the social fabric, instead of promoting cohesion and harmony as was expected; it can introduce and maintain questionable practices in the conduct of public affairs whereas it had been hoped that it would develop new indicators of good governance; it can even tarnish the image of the donor, who, all unwilling, ends up being a party to a situation where, paradoxically, people may even regret receiving the assistance because it has heightened expectations and caused conflicts that might not otherwise have seen the light of day.

One precondition for the proper use of official assistance is transparency in that use. It is not, of course, enough on its own but it is necessary and must be in place before there can be any background discussion. The debate about transparency, like the one about the proper use of assistance, must begin the moment the assistance is granted: it is no good waiting for the money to be spent before "discovering" that it has not been spent properly and embarking on a witch-hunt and all sorts of investigations which are not only bound to fail but could even make some of the frustrations worse.

Governments could publish an official assistance journal every three or six months in which any citizen could find information on such things as:

- The total amount of financial assistance obtained from each donor, along with a detailed breakdown by area of activity or by budget line: seminars, publications, election logistics, vehicles, various items of equipment, allowances and fees if any, and so on;

- A list of natural and legal persons such as groups, companies, associations, researchers, consultancies, economic consortiums, non-governmental organizations and so on that have received, for whatever reason, official assistance funding, under whatever title (assistance, fees, subsidies, paid travel, accommodation or meals for or during seminars, daily subsistence allowances and so on). This does presuppose that anyone who accepts funding drawn from official assistance funds should be warned that his or her name will appear in the journal;

- A list of assets in the form of capital equipment, materials, supplies and so on acquired with official assistance funds showing how they are currently being used;

- A list of publications, writings, brochures, pamphlets, seminars, conferences and so on put together or run using official assistance money.

Much additional information could be published in such a journal; also, it would improve from edition to edition.

For everything that cannot be done or managed directly by public servants in post, the procurement regulations must be strictly observed. This is so not only for capital equipment, materials and supplies, but also for research, publications, organization of seminars and all other kinds of services. It should not be necessary to have "connections" to break into these official-assistance-funded activities. Using the normal rules of competition it ought to be possible for an independent technical commission to select the structures and people best qualified to carry these activities out. Lastly, calls for tenders should be widely publicized and should not be treated like sensitive information to which only insiders or closed circles of connections can have access.

These minimum conditions, if they were all met, would at last enable us to begin the background debate on the proper use of the money our partners give us. Two brief examples: if we compare the amounts allocated to publications and to indelible ink during elections, we will perhaps see that we can economize on publications by not putting them out in colour on luxurious glossy paper and that the money thus saved could be used to acquire better-quality indelible ink that is effective no matter how it is used - without needing to shake the bottle, for example. And then again, we might reduce the number of vehicles, so long as they are used exclusively for election logistics.

Transparency in the use of official assistance funds is just one aspect of transparency in the management of public finances and public affairs in general. It is the best indicator of good governance.

The effectiveness of good governance will be judged on the day-to-day implementation of this virtue, because if Africa is able to offer this kind of transparency, this would not only safeguard its sovereignty and free it from external controls that are ever more restrictive and disagreeable, but it would also indicate that a profound transformation in mind-set had occurred, meaning that there was greater respect for the public good and that a strong and respected State had emerged.

- Decentralization as an indicator of good governance has been the subject of many pertinent comments.

The technical aspects of decentralization - territorial or local decentralization, decentralization by services, decentralization of the central authority, delegation of power and authority - are intimately linked with the performance of the civil service, and falls within the province of public administration.

The role of decentralization in good governance is examined below, in the paragraph on national integration.

- Accountability enables us, within the framework of good governance, to identify the person to be called to account.

The French language should borrow the English term "accountability" because it is more expressive than the equivalent French expressions responsabilité, obligation de rendre compte, imputabilité and so on.

Accountability gets rid of the anonymous decisions and activities that are so very damaging to good relations between citizens and the administration. It also sets up the incentives and disincentives without which there can be no good governance.

(c) National integration

One of the major obstacles to the emergence of a democratic society in Africa comes from the lack of national integration in these countries. Thus, most African States are suffering from a crisis of legitimacy.

The legitimacy of a State must not be confused with the legitimacy of governments: a government is legitimate if it is properly elected and if it enjoys the free consent and support of a majority of its citizens. Conversely, the legitimacy of the State assumes that the State is based on a minimum consensus: consensus on its institutions, on the checks and balances which ensure the various freedoms; consensus on the State's frontiers, and consequently on the nation.

It is clear that most African States are suffering from a crisis of legitimacy; this, in many cases, explains why there is governance: many repressive and freedom-depriving laws are explained, though not justified, by the fact that the State does not enjoy legitimacy, this is to say, a minimum consensus that could have given it the necessary authority to have its decisions accepted.

This situation stems from the fact that the artificial frontiers imposed by colonization and frozen by the new governments do not always actually gel. While people once believed in good faith that planting a centralizing State on these frontiers would lead to the creation of a nation (this is, roughly, the so-called nation State thesis), we now see that national feeling remains very fragile and that, in most cases, clan, tribal or regionalist reflexes take precedence over what industrialized countries call "the general interest".

The failure of the theory and policy of the nation State explains why many African countries appear to be made up of a host of unconnected - and, in many cases, rival - nationalities rather than being integrated wholes.

Two legal instruments can promote national integration in Africa.

- A different philosophy of decentralization. There is no longer any question that decentralization is an indicator of good governance, and large sums are currently being spent to support such decentralization in many African countries.

What is involved, however, is traditional decentralization, which proceeds more or less as follows, at least insofar as French-speaking Africa is concerned: a law recognizes the legal and financial autonomy of regional groupings or communities, authorizes them to elect their own officials and administrators, enumerates their powers, transfers to them certain services which up to now have been administered by the central government, and transfers to them the resources which the central government has used for the administration of such services.

This unquestionably constitutes progress relative to the previous situation in which all activities were administered by the central government. As conceived, however, this kind of decentralization does not promote national integration, and it will become clear before the end of the decade that it is not an indicator of good governance, for at least five reasons:

- It is a duplication, an imitation at the regional level of what is being done by the central government; the central government, however, is not a model of performance in Africa. To transfer its rules of functioning to the regional communities is to make bad governance worse, not to strengthen good governance. Thus, countries which have carried out decentralization have transferred to the decentralized communities the electoral system of the central government, the structure of the executive branch of the central government, and all the institutions that do not work well and that are often included in reform programmes aimed at promoting good governance. In addition, it is often the same individuals who discharge responsibilities at the government level and in the decentralized communities. Therefore, traditional decentralization does not do away with the dysfunctions seen at the central government level; these dysfunctions remain, but are duplicated in smaller jurisdictions within the State.

- Traditional decentralization does not protect minorities; universal suffrage does not afford them real representation. There is a need to devise other forms of administrative organization which take these realities into account, and in particular, to reconsider the method of drawing the boundaries of administrative districts.

- Duplication of the central system occasionally goes so far that all the decentralized communities are organized strictly in the same way; however, the status of the regional groupings should be varied. Attempting to administer all the regions of a State in accordance with uniform rules increases social rigidities. The status of the regional groupings should be varied. There is no reason to set up the same types of administrative bodies in nomadic, desert, forest and maritime regions.

- Traditional decentralization does not guarantee cultural pluralism. Furthermore, the gap between political and cultural pluralism is the source of numerous divisions within society. Cultural pluralism implies that the political authority does not organize the domination of one culture over the others, and that it gives all cultures equal opportunities to develop. It also implies the freedom to choose one's culture and, accordingly, the option of changing cultures and being accepted.

- Whenever the dimensions of the State so permit - and this is true for nearly two thirds of African States - federalism is the best means of administering public affairs.

Therefore, a different philosophy of decentralization must be applied if decentralization is actually to promote national integration.

- The integration of law and the restoration of the judge's authority. The analyses done of the independence of judges as an indicator of good governance remain relevant; the judicial support programmes developed in many African countries, aimed, for example, at equipping the courts, training judges and providing them with useful documentation necessary for their work, are likewise commendable.

Nevertheless, these judicial support programmes are aimed mainly at the consequences of bad governance in relation to the administration of justice, not at its real causes. Quite often, bad governance in the field of justice is due not to the status of the judge, but to the way in which justice is organized, and, still more fundamentally, to the fact that the law that the judge attempts to apply is not suited either to the sociocultural realities or to the demands of globalization and technological innovations. This is why the beneficial effects of judicial upgrading programmes are likely to be vitiated if they are not followed by reform of the very basis of law.

Consideration could therefore be given to the implementation by the United Nations of a project on law reform in Africa, designed in such a way that the various families of law across the continent would be enriched by their mutual contributions.

For instance, the introduction of certain common-law principles into the French-speaking African sphere would make it possible to develop numerous indicators of good governance, at least insofar as the authority and office of the judge are concerned; the same goes for the institution of trusts, which would be particularly suited to African socio-economic realities. On the other hand, the common-law African countries would welcome the adaptation of certain institutions of the civil-code system, such as the attribution of responsibility to governing authorities and other public figures.

There are at least three issues at stake which justify such a project.

• A law reform will strengthen national unity. The African nations are not united in the sphere of law; they operate in accordance with the principle of legal pluralism. This means that there are several legal systems which overlap and thus cancel one another out. Despite appearances, the State legal system derives its effectiveness and legitimacy from only about one quarter of the population. The fact that the State has at its disposal means of coercion enabling it to impose its law on all should not imply that the legitimacy of a legal system can be based on coercion in the long run. Only an internalized rule can ensure a truly stable legal system. Nevertheless, whole sectors of African society are beyond the reach of State-imposed law, or resist it, and continue to evolve in accordance with the rules of their own legal systems.

While some schools of thought encourage legal pluralism, seeing it as a reflection of political pluralism at the social level, such a system threatens national unity in the long run. For example, the coexistence of secular and religious rights rests on a delicate balance, the shattering of which would have severe consequences for national unity.

The primary goal of law reform is, therefore, to bring about the social integration of law and, accordingly, to broaden and strengthen the basis of consensus, so as to enable democracy to function better.

• A law reform will strengthen social peace. One of the trends in modern law is to assign a new role to legal norms.

The function of legal norms heretofore was the direct regulation of individual conduct. Such norms were lawful to the extent that they were promulgated by duly authorized bodies, such as the parliament in the case of laws and the government in the case of regulations. Rule-making was thus unilateral: education reform, the electoral code and the status of civil servants, to mention but a few examples, were adopted by the parliament or decreed by the government, unilaterally, subject to review by a judge of the practical means of implementing them.

What appears to be new is the tendency to confer on legal norms the function of guidelines and frameworks for consensus; traditional unilateral norms are gradually being replaced by consensual norms. By degrees, genuinely compulsory norms are becoming negotiated norms, even in areas traditionally within the discretionary power of the government administration, such as the civil service, and even though the general status of civil servants still proclaims that, from the standpoint of the administration, a civil servant is subject to statutory and regulatory control.

In the light of this phenomenon, there are at least two political options:

- Maintaining and strengthening republican legality, which would, for example, mean that a law duly adopted by the deputies of the nation, elected on the basis of universal suffrage, could not be challenged outside the National Assembly, or that full effect must be given to executive decrees issued in exercise of the discretionary power conferred on the executive by the Constitution;

- Assigning a new function to laws and regulations. For instance, if they are regarded simply as guidelines, it must be admitted that coercive norms will emerge only after consultations take place within the frameworks which they establish, unless it is also decided that laws and regulations will come into play only to codify the results of consultations arrived at by consensus.

For reasons of maintaining social peace, it is this last trend which certain African governments appear to be following. But if this trend is to persist over time, a law reform should redefine the roles of the legislator and the executive and the methods enabling the social partners to participate in the legal decision-making process.

Here, too, common law can be of great help to the French-speaking countries. Common-law norms represent (i) the codification of great judicial decisions, (ii) guidelines which become effective only when they are interpreted and applied by the courts, or (iii) arbitration: when faced with a problem that raises serious conflicts of values, the courts refuse to rule and request the parliament to arbitrate.

- A law reform will increase competitiveness. One of the features of a civil-code legal system is the distinction between public and private law.

This distinction appears to be more and more of a handicap in the current international context marked by competitiveness and globalization, especially because this context is largely dominated by the common-law Powers, which either do not recognize this distinction or do not give it the same importance.

A law reform will merely take note of this seemingly natural convergence between public and private law and draw practical consequences from it, for instance, in the criminal-justice field. The common-law countries have neither a public prosecutor (parquet) nor an examining magistrate, and yet crimes and delicts are punished in those countries. Even in criminal justice, the system is based on the adversarial principle: the judge is limited to applying strict rules on admission or exclusion of evidence, and does not interfere in the conduct of the trial, which is based almost exclusively on witnesses' evidence and the prosecution is held to the standard of proof beyond a reasonable doubt, without which the defendant is acquitted.

Such an institution is clearly an excellent indicator of good governance.

One major consequence of the integration of law will be felt in African countries in which there are castes, and in the more numerous ones that practice tribalism.

No real democracy can function in such countries.

India, which is on the point of eliminating similar situations, is an especially appropriate example for Africa.

4. Public policy formulation and management

The beneficial effects of a democratic law-governed State and a democratic society can be maintained and enhanced only if public policies are well designed and well managed.

African countries and development partners have a twofold responsibility in this area.

It is frequently the case that some African Governments do not clearly perceive the objectives of good governance in relation to the reforms that they are undertaking or the public policies that they are initiating.

It should therefore be pointed out that good governance implies that when one knows how to use an instrument, one can improve its performance without transforming it. Accordingly, innovation would consist, not in reforms, but in the manner in which the State or administration is managed, utilizing its various component parts and structures in such a way as to maximize their output and effectiveness.

Good governance does not exclude reforms. Nevertheless, contrary to the premises based on the view that "the smaller the State, the better the State", it does not envisage reforms in themselves as a means of changing the role of the State, but rather as constituting performance indicators of how well public affairs are conducted, in other words, as effective tools for managing a State or administration.

For example, whereas the economic interpretation of a decentralization reform would be to determine, inter alia, how the new distribution of responsibilities between local communities and the State changes the latter's role, relieves it of certain tasks or eases its finances or to raise the question whether the new local communities have sufficient resources to assume their new functions, concern for good governance would seek to determine how the reform improves the quality of relations between the State and civil society, whether and to what degree it promotes popular participation and local democracy and so forth.

The performance indicators that are obvious signs of good governance are numerous and vary according to context. Taken in isolation, these factors are not indicators of good governance. In other words, for example, there is no good constitution or good legal system in itself. At most, it could be said that each of these elements, taken in isolation, is good in itself: in absolute terms, any constitution could be good, just like any legal system or concept of human rights.

On the other hand, these elements represent indicators of good governance to the extent that they are able to interconnect and function harmoniously. The various elements in question must be able to fit together, mesh with one another like parts of a machine in operation.

For African countries, the question of good governance consists, therefore, in determining whether and to what extent reforms mesh and fit together harmoniously with their constitutions, legal systems, civil service and so forth, or what corrections should be made to one or more of these elements to make them function as parts of a single machine in operation. Good governance is like a machine that runs properly. The absence of good governance is a juxtaposition of such parts, each of which is interesting, but which are unable to interconnect in order to form a functioning apparatus either because they belong to different types of apparatuses or because, when they were manufactured, no one had thought that they would have to interconnect or fit together.

Accordingly, further efforts must be made in Africa in order to develop good governance. There are three main shortcomings in the way public policies are formulated.

1. Many reforms are not completed and some States resemble vast neglected building sites.

Good governance is measured also by the ability of the public authorities to implement and complete coherent reforms.

2. Frequently, there is no correlation between various reforms. In this case, they do not fit together or interconnect with one another as they should. For example, a decentralization reform, a reform of the legal system and a civil service reform are undertaken successively, but none of them exerts any ratchet effect on the others. Thus, decentralization is not used in order to reduce the civil service by transferring part of its personnel to the new local communities or decentralize the system of justice in order to bring it closer to the citizens at large.

3. The refusal to accept all the consequences of the electoral process is not consonant with good governance either. The purpose of elections is to designate the majority which is going to govern. To form a government, following elections, which does not reflect the results declared indicates that something is not functioning properly in the political system.

Development partners, including the United Nations, can also promote better formulation of public policies on the part of African countries.

They should first of all harmonize their own positions concerning governance so that differences among them do not affect African public policies.

They should then accept the fact those policies are just as diverse as the States are. This requires that they abandon the practice of designing projects that are applicable to any group of States without distinction, since no African State is identical to another. This should induce them to decentralize activities so that they are more in conformity with local conditions. Ultimately, the entire responsibility for formulating such projects must be transferred to the Africans themselves.

B. Emerging trends with regard to governance

The developments referred to earlier foreshadow the extent of future problems with regard to governance. These are problems that at the current time have not been solved or will emerge as a result of the new world political and economic environment.

They can be placed in two major categories: one concerning the nature of the African State and the tasks facing it, the other relating to the future of majority-based pluralists democracy.

1. The future of the African State

The debate on the African State in terms of governance refers to the expression "reconceptualization", which will henceforth enjoy currency.

The reconceptualization of the State is the redefinition of its role and its missions, in view of the objectives that are given to it.

In this regard, Africa has been moving towards three options.

(a) The strengthening of the State will be necessary for good governance.

Another interpretation of the concept "the smaller the State, the better the State" is gaining ground.

Up to the present time, an economic interpretation linked to the implementation of structural adjustment policies has prevailed. The phrase "the smaller the State" is directed towards the past in order to describe what must be changed; "smaller" suggests that this change must aim at reduction, that it is a matter of unburdening the State of something. The phrase "the better the State" is oriented towards the future; it describes what will be or ought to be the new image, the new profile of the State. The word "better" succinctly expresses a value judgement suggesting that it is a question of a qualitative change, that the profile of the State, when it has been unburdened of something, will be preferable to what it is at the current time.

The result is a weakening of the State. Hence the expressions: the "minimum State", "facilitator State", "essential State", "necessary State", all of which mean that the less the State intervenes, the better it is for the economy and the citizens.

Henceforth, we will move towards a managerial interpretation of "the smaller the State, the better the State".

First, it was perceived that economic liberalization required precisely a strong State capable of taking initiatives, giving impetus, directing, sometimes controlling, and of asserting itself in international relations.

Subsequently, without calling into question the economic role of the State, greater importance has been accorded to good governance, that is, the way in which the State assumes its functions and makes use of its capacity for regulating and providing impetus and its ability to guide society.

In this context, the new State must keep the initiative, reserve an irreducible space for the public service sector and thus be able to arbitrate between private interests and the general interest.

It is a question of determining how to strengthen the African State without returning to the interventionist State or calling into question the major choices offered by economic liberalization. It will perhaps be necessary to establish the principles of a neo-interventionist State.

(b) New forms of the State might emerge in Africa.

Two possibilities may arise.

The emergence of a regional or subcontinental State.

If decentralization succeeds and makes sufficient headway and if economic integration gains ground through a strengthening of the existing communities (ECOWAS, CACEU, WAEMU, etc.) as well as the establishment of others, many responsibilities will no longer be carried out by central governments and there will be movement towards a regional State in which the main decisions will be taken at the headquarters of the African communities.

Relatively speaking, this will bring the African countries closer to the model of the European Union.

In accordance with this hypothesis, good governance on the part of African States will be evaluated on the basis of their adherence to the objectives of the political communities. Likewise, the guarantees for citizens' rights and freedoms will assume a regional dimension. Good-governance programmes will be more effective since they will apply to a larger territorial space.

The emergence of the multinational State or the ethnic State

Some regions of Africa are seriously threatened by tribalism and ethnic rivalries.

In some cases, these ethnic groups are like small nationalities, with all the attributes and characteristics that this involves: languages, religions, history and so forth.

As a result of the arbitrary contours of the frontiers of most of these States, some of these ethnic groups or nationalities overlap in several legally independent countries.

The ethnic group as a basis for reconceptualizing the State is becoming the subject of intense reflection in Africa. The failure or slackening of economic development could lead, in some parts of Africa, to the emergence of a

multinational or ethnic State. The question with regard to good governance will then be to determine how such a conception of the State can be in accordance with universal human rights. This will be a major challenge that Africa will have to take up.

2. The future of pluralist majoritarian democracy in Africa

(a) The plurality of democratic models

In these analyses, the references to democracy imply pluralist majoritarian democracy, a system in which the Government is placed in the hands of representatives who are freely chosen by citizens after free and fair elections. It is, therefore, the Government of the majority.

But pluralist democracy is only one among many democratic models. In Africa, as elsewhere, there is a plurality of democratic models.

Africa remains tempted by three of these models.

- Democracy without political parties has been tried in some East African countries but it is still too soon to be able to evaluate its effectiveness.

If this form of government were to succeed in guaranteeing universal human rights and sustainable human development, it would lead to a profound change in the concept of good governance.

- An alternative culture-based model

The preceding remarks lead to an immediate logical reaction: Africa should invent its own democratic model or it should invent the institutional framework for consensual democracy, which amounts to roughly the same thing.

This is certainly the fundamental solution towards which it seems legitimate to work, whatever the obstacles and reservations involved in such a culture-based approach.

However, the primary difficulty is the fact that development of an African model will take time, and still more time will be required in order to test, experiment with and adjust it and make it competitive. A number of studies have been carried out in this regard, and they should be pursued and encouraged. But it is clear that they will bear fruit only in the distant future. Until these results are available, it seems urgent to seek other solutions.

- Return to a one-party system

With the revival of democracy in Africa, the death of the one-party system was, somewhat hastily, proclaimed. Such systems, which were conceived at the time of independence as an ongoing framework for consensus which would concentrate a nation's energy and strength on essential matters in order to ensure economic development, eventually came to serve the personal ambitions of

some political leaders who used them as instruments of dictatorship. Although they were intended to promote and consolidate national unity and social tranquillity, ultimately they divided nations, exacerbated antagonism and tribalism and stifled freedom and human rights.

Because such systems became synonymous with dictatorships, they have understandably been widely rejected, particularly since 1989 or 1990, the years which marked the beginning of the period of democratic renewal in Africa.

Since only a few years have passed since the beginning of these new political experiments, experience calls for caution and discretion: the possibility that some African States will restore or maintain one-party systems can no longer be summarily and categorically ruled out.

Several factors may contribute to this development.

- The African countries which have not yet established a multi-party system, though few in number, may be discouraged from taking this step when they see what is happening in pluralist democracies and, on the contrary, be encouraged in their desire to strengthen and improve their own forms of government.

- The excesses and immoderation of the opposition in certain countries may eventually create a backlash against pluralism; the latter may be perceived as a disorderly and irresponsible regime, and this may encourage or facilitate the rise of civilian or military dictatorships.

- Power-sharing, whatever its modalities, brings the countries which practice it to the verge of a one-party system. It invariably creates or strengthens the system of the dominant party. Thus, by marginalizing the opposition, it paves the way for a return to a one-party system.

Unless the economic results obtained by pluralist democracies are significantly better than those achieved by one-party regimes, pluralism will have no further justification from the point of view of international competitiveness; it will be reduced to a dialectical exercise for salon intellectuals, limited to the capital cities of Africa. Under those conditions, more and more people, including in official circles, will start calling for a return to the one-party state. In this regard, it is significant that some powers no longer require pluralist democracy, but rather economic results, as a condition for assistance.

Of course, a return to the one-party system should not be encouraged; it may even legitimately be opposed. However, since a return to this type of regime is no longer a merely hypothetical question, the positive, useful approach in the case of Africa would be to determine how, under these conditions, it might be developed.

In that regard, it might be appropriate to take another look at a concept which met with opposition and disparagement when it was formulated by certain western politicians, that of the multi-trend one-party system: a single framework which would include as many significant political trends as were

present in the country. These trends would take the place of political parties. Various measures and provisions would make it possible to organize a change or rotation of power within the party and to share power so as to preserve ethnic, linguistic, regional and other types of balance.

(b) The ambiguities of Africa's choices and their impact on good governance

The institutional models which have just been described are mutually exclusive: pluralist majoritarian democracy, consensual democracy and democracy without political parties cannot be made to coexist in a single State. Furthermore, each form of democracy has its own instruments, which cannot be applied to other systems. For example, elections are used to calculate the governing majority in pluralist democracies.

What would appear to be a given is not clearly the case in Africa. Some countries adopt the instruments of pluralist democracy and organize elections in which several political parties compete, but then appoint the heads of the principal opposition parties to government posts without their respective parties having agreed on a common programme of government. Various terms, including power-sharing, expanded majority and common management, are used to describe this governmental practice.

Of all the explanations of this phenomenon which have been advanced, two are interesting from the point of view of governance issues. The first is that it is a substitute for a change of power; since such a change is impossible because the system is blocked by a dominant party, power must be shared with the opposition because the latter has no legal access thereto. The other explanation is that the phenomenon of majoritarianism does not exist in African tradition: the minority's acceptance of decisions taken by the majority is a feature of western culture. This would explain why Africans, while pretending to accept the rules of pluralist majoritarian democracy, incorporate into that system principles which are foreign to and which distort it.

Experience has shown that this practice is a move away from good governance: costly elections are organized as if to designate the majority which will govern, but with no result; it is always the major opposition party which is brought to power. Thus, there is no longer any opposition in Parliament, which brings the country to what borders on a one-party system. Many other drawbacks of this practice could be cited.

For all of these reasons, clear institutional choices are also indicators of good governance.

(c) Adaptation to pluralist majoritarian democracy and new problems of governance

Unquestionably, the best solution is for Africa to adapt to pluralist majoritarian democracy rather than seeking to create an African form of democracy. In this respect, two major difficulties will be encountered on the path to good governance.

- Inducing acceptance of the principle of majoritarianism

As has been stated, in Africa, it is not natural for the majority to decide and the minority to acquiesce, which principle is the very basis for majoritarian democracy.

In fact, this concept is foreign to many African cultures, which refuse to decide on a yes-or-no basis, to vote or to choose. Difficulties are circumvented and confrontations and disagreements avoided, even in situations where they would be salutary. In countries where such cultures are dominant and where an equally dominant religion exerts a strong influence on citizens and political decision-makers, pluralist majoritarian democracy cannot function appropriately since there would have to be a complete change of attitude in order for majoritarianism to be accepted.

- Balancing the platform of unanimity

The social fabric on the basis of which pluralist democracy can develop must display, inter alia, two apparently contradictory characteristics. On the one hand, there must be a minimum of common values, a platform of unanimity composed of a set of cultural or material assets on which there is a minimum degree of consensus. It is this platform on which the members' solidarity is based. But, on the other hand, there must be enough moral and material difference between citizens to make pluralism possible. These differences must be sufficiently great and perceptible to justify political competition, but not so great as to call into question the platform of unanimity. Pluralist majoritarian democracy is impossible where the differences are so great as to tear the fabric of society; neither can it exist where the platform of unanimity is so broad that there is no longer anything for the citizens to debate.

Most African societies are characterized by an imbalance in the platform of unanimity.

In some of these societies, owing to factors such as a dominant or even virtually universal religion, an absence of ethnic diversity and, consequently, of cultural diversity and a dominant ethnic group, the citizens have little to debate and there is no alternative to the power currently in place. In others, the reverse applies: the differences are so great that the social groups resemble genuine autonomous nationalities. In such cases, debate and majoritarian democracy are both impossible.

These factors explain the existence of the one-party regimes which have now been replaced by those based on a dominant party; in these regimes, there is no change of power or political alternative because the system is blocked by one large party, orbited by a circle of small parties which are unable to exert any real influence on political life.

Only through a policy of profound, bold structural and institutional reforms can the platform of unanimity be balanced. The question of which type of Government should carry out such reforms and, consequently, pave the way for the introduction of democratic pluralism, is a central issue for normative political theory and good governance.

III. RECOMMENDATIONS

The following recommendations confirm and build on those submitted to the thirteenth session of the Group of Experts, which are still relevant today.

A. Recommendations for achieving the overall objectives of good governance

1. Recognize the importance of the law in the formulation of good governance programmes

Programmes to strengthen good governance must have major legal components. It is a fact that in many cases, a high degree of political will to run affairs in accordance with the principles of good governance is thwarted by legislative and regulatory gaps and inadequacies. Legislative reform must therefore be viewed as a key objective of good governance. This implies that the United Nations will involve highly qualified jurists who are well versed in both the romano-germanic and common law systems in the formulation and implementation of governance programmes.

2. Coordinate administrative reforms and governance programmes

A close correlation must be established between administrative reforms and good governance. Often administrative reforms which by themselves give every indication of guaranteeing performance turn out not to promote good governance when actually implemented. Accordingly, the terms of reference of administrative and financial reform projects must provide for an assessment of the impact of the good governance they will produce.

3. Give priority to programmes aimed at stimulating innovation and enhancing central Government performance

Governance programmes need to devote the largest part of their attention to improving public management by the central Government itself. While significant efforts have been made to restructure the civil service and bring about decentralization, most central Governments in Africa continue to function as they always have, whereas it is they who are supposed to give direction to the system as a whole.

4. Disseminate human development objectives, as understood by the United Nations, more widely

Sustainable human development continues to be the backdrop and the benchmark of any good governance programme. This new economic policy needs to be disseminated more effectively and intelligibly to as wide an audience as possible. Good governance must also ensure that the majority of citizens understand the human development index (HDI) and how it can be improved.

5. Emphasize comparative approaches

Emphasis should be placed on comparative approaches between African countries having different colonial histories and between Africa and other democratic developing countries.

B. Recommendations relating to specific good governance objectives

6. Set up a global and integrated programme to strengthen the institutional framework for good governance in Africa

The major conference held in Addis Ababa in March 1998 on strengthening the institutional framework for governance must lead to changes in Africa in the very near future. In this connection, the United Nations could develop a global programme for strengthening the institutional framework for governance in Africa.

This programme would have three components:

- A component entitled "Reform of constitutions and governing institutions", which would include electoral systems, political party charters, the rules of procedure of parliamentary assemblies, the status of opposition parties, and so forth;

- A component on "Reform and the integration of law", which would harmonize, integrate and adapt modern and traditional laws as well as different legal systems;

- A component called "Democratic rotation and power-sharing", which would set out the principles of rotational government and, where this is impossible, identify the conditions under which the opposition can share power without undermining the principles of good governance.

This recommendation would be implemented as follows:

- Each component of the programme would be the subject of three regional conferences held in English, French and Spanish and Portuguese. This initial phase would allow countries with common political traditions to synthesize their experiences and practices;

- Each component would then be the subject of a summarizing conference during which all countries would determine what the positive experiences of all political and legal persuasions were with a view to incorporating them in the final project;

- A general conference would then bring together all the synthesized elements into an integrated project.

This integrated project would enable the United Nations to establish standards for the institutional framework for good governance in Africa. These

standards would of course be optional for States, but would be gradually implemented because civil societies in States would rely on them as they demanded progress in the area of good governance and because certain bilateral agencies might make this a condition for aid.

7. Eliminate castes, combat tribalism and develop physical education

Castes which discriminate against citizens because of their birth are a blatant affront to human dignity. Tribalism as reflected in preferences shown to the members of one's own ethnic group, clan or tribe in the management of public affairs is one of the major symptoms of bad governance. In attacking these major problems with energy, determination and powerful tools, the United Nations can avoid disruption and failure. In this connection, the experience of India is particularly noteworthy.

8. Expand decentralization policies

Many programmes in support of decentralization are currently in operation and should be pursued.